



CITY OF HAYWARD AGENDA REPORT

Planning Commission

Meeting Date 9/28/00

Agenda Item 4

TO: PLANNING COMMISSION

FROM: Richard E. Patenaude, Acting Principal Planner

SUBJECT: **Use Permit Application No. 00-160-E -- Daniel Burris for Turf Club (Applicant) / John Brenkwitz (Owner) -- Request for Nightclub (Relocated from 22.5 17 Mission Boulevard)**

The project location is 22519 Main Street, between A & B Streets in the Central City -- Plaza/Commercial (CC-P/C) Subdistricts.

RECOMMENDATION:

Staff recommends that the Planning Commission find that the project is categorically exempt from CEQA and approve the use permit for a nightclub subject to the attached findings and conditions of approval.

DISCUSSION:

Setting

The 3,000-square-foot property fronting Main Street is developed with a one- and two-story building. The building contains two tenant spaces: the subject space being currently vacant; and the other occupied by a bakery (Patisserie Française). The Cazbar nightclub occupied the vacant space until September 1997. An adjacent 4,000-square-foot open lot, which fronts "A" Street (see Attachment A), is covered by a deteriorated asphalt surface and surrounded by a chain-link fence. The applicant intends to renovate the Main Street facade as well convert the open lot into a patio area for use by the nightclub. No off-street parking is required as this property is located in the Central Parking District; adequate parking is available in the adjacent municipal parking lot.

Adjacent Land Use and Zoning

North - Sapporo Restaurant, zoned Central City -- Plaza/Commercial (CC-P/C) Subdistricts

West - Municipal Parking Lot #1; various retail, service and restaurant uses, including PIP and Buon Appetito, along "A" Street, zoned Central City -- Commercial (CC-C) Subdistrict

South - Domino's Pizza, L'Amour Shoppe and Chamber of Commerce, zoned Central City -- Plaza/Commercial (CC-P/C) Subdistricts

East - (across Main St.) Mixed service and retail uses, including *Goodyear*, *The Store* and *Rumors*, zoned Central City – Plaza/Commercial (CC-P/C) Subdistricts

Proposal

The *Turf Club* operated at 22517 Mission Boulevard for approximately 35 years; an earlier bar existed at that location for an additional 25 years previous. The *Turf Club* closed because the site is part of the downtown Albertson's shopping center, currently under development. The applicant now requests to relocate the *Turf Club* to 22519 Main Street. A conditional use permit is required for all nightclubs in the Central City Subdistricts.

The Zoning Ordinance¹ allows for two on-sale liquor establishments per block face within the Central City Zoning District. Currently, the only other on-sale establishment on the same block face of Main Street, *Sapporo Restaurant*, is exempt from this provision because it is a *bona fide* restaurant. The opposite block face of Main Street contains one on-sale establishment, *Rumors*. There are no off-sale establishments within this block of Main Street.

The State Department of Alcoholic Beverage Control (ABC) reports, however, that there is an over-concentration of liquor establishments in the downtown census tract. The over-concentration regulations statutorily prohibit the ABC to license a new liquor establishment in this area unless the governing body determines that the public convenience or necessity would be served by the issuance of the license. The City Council has authorized the Planning Director to make this determination. In this instance, the Planning Director is of the opinion that the public convenience or necessity would be served by sales of alcoholic beverages at the subject location since this is a transfer of an existing license within the census tract. There will be no net increase in the number of licenses.

The recommended conditions of approval are typical for a request of this type. The conditions will ensure that the nightclub will be properly regulated and controlled such that it will not be detrimental to the surrounding neighborhood or businesses. In addition, the applicant will be required to upgrade the wall around the patio area and perimeter landscaping, and renovate the Main Street building facade. Such work will be subject to approval of the Planning Director, in keeping with the historic character of the building and its surroundings pursuant to the recommendation of the Citizens Advisory Board.

Public Response

Staff has received verbal support of the application from CommPre (*Community Prevention of Alcohol-Related Problems*) with certain recommendations regarding employee training and a prohibition of sales for off-premise use; these recommendations have been incorporated as conditions of approval. Staff has also received five comments from nearby merchants: three opposed to the request; two in favor. The opponents are concerned about the possibility of

¹(Section 10-1.2735b.(7)(b)(iii): Special Standards & Conditions for Certain Uses – Alcoholic Beverage Outlet Regulations)

disorderly conduct and the effect of another bar on the mix of uses in the downtown. The proponents cite a positive operation by this business in its previous location.

ENVIRONMENTAL REVIEW:

The proposal qualifies for a Categorical Exemption under Section 15031 (Existing Facilities) Class 1 (Operation of a private structure) of the California Environmental Quality Act (CEQA) Guidelines.

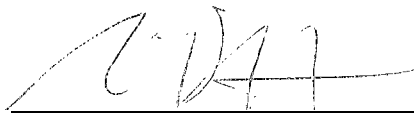
PUBLIC NOTICE:

A Notice of Receipt of Application was mailed to every property owner, and hand-delivered to every business and resident within 300 feet of the property; staff has received no response. On September 18, 2000, a Notice of Public Hearing was mailed to the same.

CONCLUSION:

Staff supports the approval of the conditional use permit. The *Turf Club* has a long tenure in its previous location and its move is predicated by a downtown redevelopment project (Albertson's). The *Turf Club* would remain within the Downtown Historic Rehabilitation District. Main Street is a locus of commercial activity in the downtown core and the City's Core Area Plan calls for a diverse physical environment for the downtown. The proposed location conforms to the regulations of the Zoning Ordinance. In addition, staff believes that the public convenience or necessity would be served by transferring the subject on-sales license; there will be no net increase in the number of licenses.

Prepared by :



Richard E. Patenaude, AICP
Acting Principal Planner

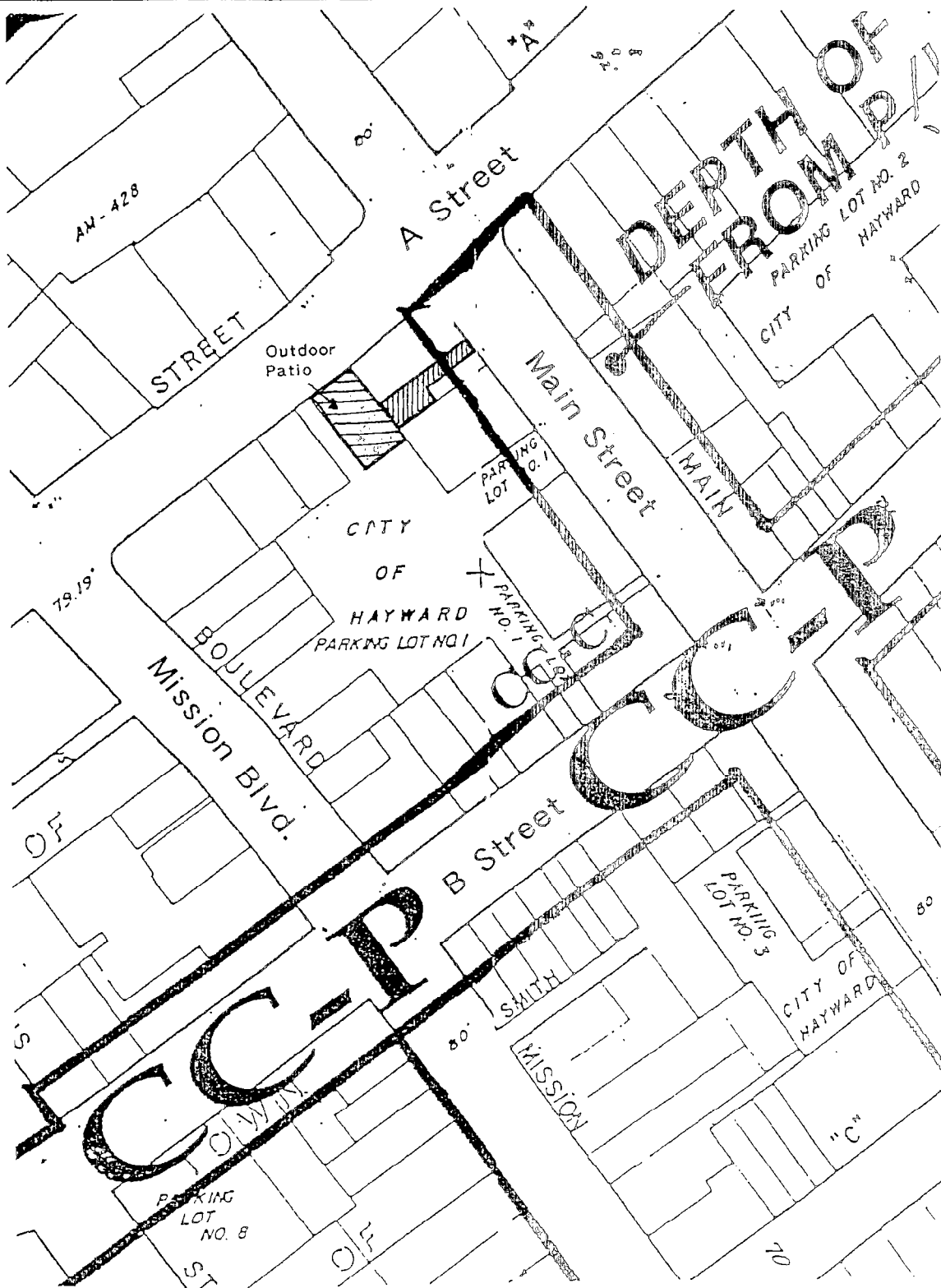
Recommended by :

A handwritten signature in cursive script, appearing to read "Dyana Anderly", written over a horizontal line.

Dyana Anderly, AICP
Planning Manager

ATTACHMENTS:

- A. Area Map
- B. Findings for Approval of Use Permit
- C. Conditions of Approval
Plans



Area and Zoning Map

22519 Main Street

UP 00-160-15

Dave Barker/John Brenkwitz (Applicant/Owner)

ATTACHMENT A

FINDINGS FOR APPROVAL

USE PERMIT 00-160-15

**DANIEL BURRIS FOR *TURF CLUB* (APPLICANT) / JOHN BRENKWITZ (OWNER)
REQUEST FOR NIGHTCLUB (RELOCATED FROM 225 17 MISSION BOULEVARD)
22519 MAIN STREET**

1. The project is categorically exempt under Section 15301 - Existing Facility, of the California Environmental Quality Act (CEQA) guidelines.
2. The proposed use is desirable for the public convenience and welfare in that it provides a service, entertainment and social facility appropriate to the downtown area.
3. The use permit to allow a nightclub at 22519 Main Street will not result in a change to the concentration in the area of establishments dispensing alcoholic beverages, in that, this is a transfer of an existing license from 225 17 Mission Boulevard.
4. The proposed use will not impair the character and integrity of the Central City – Plaza/Commercial Subdistricts and the surrounding area in that the use is allowable in the Subdistricts and contributes to an appropriate mix of uses appropriate for the downtown area. The proposed use is in harmony with applicable City policies and the intent and purpose of the zoning subdistricts. Physical improvements to the property will be subject to the City's design guidelines and will be consistent with the historic character of the building and the surrounding area.
5. The use permit, as conditioned, will be properly regulated and controlled to ensure that the facility will not be detrimental to the surrounding neighborhood or businesses.
6. The use permit, as conditioned, will be properly regulated and controlled to ensure that the public health and safety are provided with respect to sale and use of alcoholic beverages at this facility.

CONDITIONS OF APPROVAL
USE PERMIT 00-160-15
DANIEL BURRIS FOR *TURF CLUB* (APPLICANT) / JOHN BRENKWITZ (OWNER)
REQUEST FOR NIGHTCLUB (RELOCATED FROM 225 17 MISSION BOULEVARD)
22519 MAIN STREET

1. The Use Permit Application No. 00-160-15, to allow a nightclub at 22519 Main Street shall be allowed according to these conditions and the plans approved by the Planning Commission on September 28, 2000, labeled Exhibit "A." This approval is void one year after the effective date of approval unless the business is operating at that time in accordance with the approved plans and conditions. Any modification to the approved plans or conditions shall require review and approval by the Planning Director.
2. Prior to opening the business to the public, all pertinent conditions of approval and all improvements shall be completed to the satisfaction of the City. The activities housed within the structure may open prior to improvements to the outdoor patio are completed; however, the outdoor patio may not be used until its improvements are approved and completed. The outdoor patio shall be surrounded by a solid masonry wall prior to its use.
3. Modifications to the exterior of the building, and the design of the outdoor patio area and its perimeter wall, shall be subject to the approval of the Planning Director in accordance to the Hayward Design Guidelines, the Commercial Design Manual, the Downtown Hayward Design Plan, the Design Requirements & Guidelines for Downtown Hayward, and the Core Area Plan. Such modifications are subject to review and comment by the Citizens Advisory Board, which shall provide its recommendations to the Planning Director.
4. Prior to occupancy, the permittee shall submit a floor plan, including an exiting plan, to the Building Official for review and determination of compliance with applicable code requirements for the subject use. The permittee shall provide calculations supporting the adequacy of the floor structure as required by the Building Official. Prior to commencement of any construction, a building permit must be obtained and all improvements completed in accordance with the Uniform Building Code (UBC) and Uniform Fire Code (UFC) as adopted by the City of Hayward.
5. The facility shall operate in compliance with the requirements set forth in the Hayward Zoning Ordinance Section 10-1 .2735b. Commission by the alcohol license permittee or any employee of the permittee of a criminal offense for which 1) the permitted establishment was the location where the offense was committed or where there is a direct correlation between the permittee's establishment and the criminal offense; and 2) such criminal offense is found detrimental to the public health, safety, or general welfare, shall be independent grounds for permit revocation.
6. Any violation by the permittee or any employee of the premises of any rule or regulation issued by the Department of Alcoholic Beverage Control or any law concerning the sale and distribution of alcohol shall be grounds for permit revocation.

ATTACHMENT C

7. The permittee shall ensure that the establishment complies with California Labor Code Section 6404.5, "Smoking in Places of Employment."
8. The permittee shall provide and maintain exterior lighting for the establishment that is adequate for the illumination and protection of the premises. Lighting shall be installed in such a manner that it does not shine into adjacent residential properties.
9. The permittee shall provide and maintain interior lighting for the establishment which is adequate for the illumination and protection of the premises and which allows the unaided inspection of personal identification by members of the Hayward Police Department while inside the premises.
10. The permittee shall obtain and maintain a valid Dance permit pursuant to Section 6-2.10 *et seq* of the Hayward Municipal Code at all times when dancing is allowed inside the establishment and the permittee shall at all times conduct such dances in accordance with the regulations established in the Hayward Municipal Code. The Dance Rules & Regulations pursuant to Section 6-2.15 of the Hayward Municipal Code shall be observed and posted in a conspicuous place within the premises.
11. Any time the nightclub wishes to use exotic dancers or adult entertainment, the conduct of such dancers or entertainers shall be regulated pursuant to Hayward Municipal Code Sections 4-2.50 thru 4-2.70 and Sections 10-1.2735a, and IO-1.5071 of the Zoning Ordinance. The names and addresses of such dancers, entertainers and contractors shall be provided to the Hayward Police Department Vice Bureau not less than three (3) days prior to the scheduled performance.
12. The permittee shall maintain trash and garbage storage areas for the premises that are enclosed by an opaque fence or wall and screened from the view of abutting properties and the public right-of-way.
13. The permittee shall discourage patrons and visitors from loitering in public rights-of-way, parking areas, and in front of adjacent properties.
14. No person under 21 years of age shall be admitted to the permittee's facility at any time
15. The permittee shall not sell any alcoholic beverages for consumption off the permittee's premises. Consumption of alcoholic beverages shall not be permitted on any property adjacent to the licensed premises which is also under control of the owner of the liquor establishment.
16. No admission charge, cover charge, minimum drink purchase or similar charge or minimum purchase shall be imposed on or required of customers entering the establishment.
17. At no time shall the maximum occupancy level of the establishment be exceeded.
18. The permittee shall prominently post signs inside permittee's premises and adjacent to each entrance/exit door stating that consumption of alcoholic beverages in public is prohibited by law pursuant to Section 4-2.10 of the Hayward Municipal Code.

19. The permittee and all employees engaged in the dispensing of alcoholic beverages shall attend Responsible Beverage Service training within six months of approval of this permit. Any employee hired after this permit is approved shall attend Responsible Beverage Service training within six months of his/her date of hire.
20. The permittee shall be responsible for the maintenance of the peace to ensure order on the permittee's property. The permittee shall take all necessary steps to ensure that permittee's patrons and visitors refrain from incidents of violence and/or intoxication that adversely impact the safety of the community and therefore, become an increased burden on the limited resources of the Police Department. Should the permittee fail to control incidents of intoxication and violence, the permittee may be required by the Chief of Police to provide one or more private security guards at the permittee's expense. The number of security guards and the days and hours they are to be provided shall be determined by the Chief of Police.
21. The exterior doors and windows of the establishment shall remain closed at all times when live entertainment, including a disc jockey playing recorded music, is provided indoors. Amplified and live music in the outdoor patio area shall be monitored to ensure that the sound levels measured at the property line shall not exceed the level of background noise normally found in the area or 65 dB, whichever is greater. Live entertainment, including a disc jockey playing recorded music, shall not be provided after midnight Sunday thru Thursday, or after 1:30 a.m. Friday and Saturday.
22. If a public telephone is installed, it shall be installed within the interior of the building.
23. The project owner(s) shall maintain in good repair all building exteriors, fences, walls, lighting, trash enclosures, drainage facilities, driveways, parking areas, and any other project features. The premises shall be kept clean. Any graffiti painted on the property shall be painted out or removed within seven days of occurrence.
24. Street address number, site lighting, and security locks shall comply with the requirements of the City's Security Ordinance, Chapter 41 of the Hayward Building Code.
25. If it comes to the attention of the Planning Director that there are problems occurring as a result of the nightclub, the Director may bring this use permit application back to the Planning Commission for consideration of imposing additional conditions or restrictions. Violation of conditions is cause for revocation of permit after a public hearing before the duly authorized review body.